

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARISTA RECORDS LLC, ATLANTIC
RECORDING CORPORATION, CAPITOL
RECORDS, LLC, ELEKTRA ENTERTAINMENT
GROUP INC., LAFACE RECORDS LLC, SONY
MUSIC ENTERTAINMENT, UMG RECORDINGS,
INC., WARNER BROS. RECORDS INC.,
WARNER MUSIC GROUP CORP., and
ZOMBA RECORDING LLC,

Plaintiffs,

v.

VITA TKACH, and DOES 1-10, D/B/A
GROOVESHARK.IO and GROOVESHARK.PW,

Defendants.

CIVIL ACTION NO. _____

**DECLARATION OF ELLEN
HOCHBERG IN SUPPORT OF
EX PARTE APPLICATION
FOR A TEMPORARY
RESTRAINING ORDER,
SEIZURE ORDER, AND
ORDER TO SHOW CAUSE
FOR PRELIMINARY
INJUNCTION**

**[FILED UNDER SEAL
PURSUANT TO 15 USC § 1116]**

I, Ellen Hochberg, hereby declare as follows:

1. I am employed by Warner Music Group Corp. as Vice President, Litigation. In that role, I have possession, custody, and/or control of the business records of Plaintiffs Atlantic Recording Corporation, Elektra Entertainment Group, and Warner Bros. Records Inc. (collectively the “Warner Music Plaintiffs”). I have personal knowledge of the following facts and, if called upon as a witness, would testify as to the following:

2. My responsibilities for each of the Warner Music Plaintiffs include, among others, supervising litigation and handling litigation-related matters. I am knowledgeable about the Warner Music Plaintiffs’ copyright registrations and licensing practices and am familiar with the Warner Music Plaintiffs’ business relationships.

3. The Warner Music Plaintiffs are engaged in the creation, distribution, marketing, and/or sale of sound recordings, and are headquartered or have offices in New York, New York.

In connection with their businesses, the Warner Music Plaintiffs have acquired ownership or exclusive rights under copyright to various sound recordings. The Warner Music Plaintiffs have acquired these rights either through recording contracts with artists or through other types of agreements, such as exclusive licensing or joint venture agreements with the original copyright claimants, or by virtue of being the successors-in-interest to the original copyright claimants. The underlying business records reflecting the Warner Music Plaintiffs ownership of the sound recordings at issue in this action are maintained by the Warner Music Plaintiffs in the ordinary course of business.

4. Attached hereto as Exhibit A is a spreadsheet showing the infringing recordings available on the Grooveshark.io website (the “Counterfeit Service”) which are at issue in this action and for which the Warner Music Plaintiffs either own the copyrights in the sound recordings, had exclusive rights under copyright (*e.g.*, reproduction and/or distribution rights) during the time period relevant to this litigation, or is the successor-in-interest to an entity that held such rights. These recordings are listed in Exhibit A to the Complaint filed in this action.

5. The Warner Music Plaintiffs have *never* authorized Defendants to distribute, perform, reproduce, or otherwise exploit any of the sound recordings listed in Exhibit A via the Counterfeit Service or otherwise.

6. Defendants’ unlicensed streaming and viral distribution of the Warner Plaintiffs’ copyrighted sound recordings is causing irreparable harm to the Warner Plaintiffs. First, the Warner Plaintiffs’ business model is dependent upon the licensing of their music catalogue to legitimate streaming services. If customers can instead download and stream the Warner Plaintiffs’ catalogue for free and without restriction from the Counterfeit Service, customers will have little incentive to purchase music or pay for the streaming services on which the Warner

Plaintiffs' businesses rely. As a result, the Counterfeit Service will depress the Warner Plaintiffs' ability to charge a fair market rate for its music, since all of its licensees will have to compete with a service that pays no license fees.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 11, 2015


Ellen Hochberg